

Court of Justice of the European Union: Court rules on TV
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pöytäscreens and black seconds

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Court of Justice of the European Union: Court rules on TV advertising in the context of Finnish approaches to “split screens” and “black seconds”

On 17 February 2016, the Court of Justice of the European Union (CJEU) rendered its judgment (C-314/14) on television advertising. The ruling sheds light on the proper interpretation of the Audiovisual Media Services Directive (2010/13/EU; AVMSD). The preceding television directive from 1989 as amended in 1997 and 2007 was implemented by the Finnish Act on Television and Radio Operations (744/1998; TV and Radio Act) and amendments thereto. Subsequently, the provisions at issue of the TV and Radio Act have been codified in the Information Society Code (917/2014; ISC) (with minor amendments) which entered, to a large extent, into force on 1 January 2015 (see Chs 26 and 42 ISC).

The dispute between Viestintävirasto (Finnish Communications Regulatory Authority; FICORA) and Sanoma Media Finland Oy / Nelonen Media (Sanoma) derives from early in 2012 when FICORA declared infringing some of Sanoma's practices regarding TV advertising, including those concerning screen-splitting, presentation of sponsor signs and duration of advertising breaks. Sanoma was found in breach of the TV and Radio Act: advertising was not kept distinct from programmes pursuant to Section 22(1) while advertising time exceeded the maximum time as prescribed by law, that is 12 minutes per clock hour, excluding, among others, sponsorship announcements (§ 29(1)-(2)). Commercial communication must be clearly recognisable (§ 21(1)). Separation of programmes and advertising may be established “by acoustic or optical means, or by spatial division” (§ 22(1)). These provisions transposed into Finnish law Articles 19(1) and 23(1)-(2) of the codified AVMSD respectively (Arts. 10(1) and 18(1)-(2) of directive 2007/65/EC). The directive thereby requires that advertising and teleshopping must be “readily

